



Comptroller General
of the United States
Washington, D.C. 20548

150485

(13911)

Decision

Matter of: Thermacor Process, Inc.

File: B-254068

Date: November 16, 1993

Tom Walker for the protester,
Col. Riggs L. Wilks, Jr., Department of the Army, for the
agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Specification reasonably excluded polyvinylchloride pipe as an outer protective casing for replacing underground heating and chilled water lines where the record demonstrates that the agency has had unfavorable experience with the material in this particular use and that the specified casing has a longer service life.

DECISION

Thermacor Process, Inc. protests the specifications in invitation for bids (IFB) No. DABT39-93-0023, issued by the Department of the Army, Fort Sill, Oklahoma, for replacing underground heating and chilled water lines. Thermacor complains that the IFB improperly excludes the use of polyvinylchloride (PVC) pipe as an outer protective casing.

We deny the protest.

The IFB is to obtain a contractor to replace designated underground heating and chilled water lines at Fort Sill. The IFB requires "a factory prefabricated piping system consisting of a steel carrier pipe covered with polyurethane foam insulation and a reinforced thermosetting resin [fiberglass] pipe outer casing." The IFB has been amended to permit both "poured in place or injected" insulation and "spray applied" insulation.

Thermacor contends that the Army has unreasonably excluded PVC as an outer protective casing, asserting that PVC is an acceptable outer protective casing under applicable industry standards, and that the specifications, as written, favor a particular manufacturer's piping system.

Agencies are required to specify their needs in a manner designed to promote full and open competition and to include restrictive requirements only to the extent necessary to satisfy their minimum needs. Moore Heating & Plumbing, Inc., B-246740, Apr. 1, 1992, 92-1 CPD ¶ 333. The contracting agency, which is most familiar with its needs and how best to fulfill them, must make the determination as to what its minimum needs are in the first instance, and we will not question that determination unless it has no reasonable basis. Id. Here, our review confirms that the Army had a reasonable basis for excluding PVC as an outer protective casing.

The Army reports that it excluded PVC as an acceptable outer protective casing because PVC did not prove to be a sufficiently durable protective casing in several similar underground piping systems previously installed at Fort Sill. The Army reports that the possible extreme differential in ground temperatures surrounding underground heating lines and the expansive soil conditions at Fort Sill (the soil shrinks when drying and expands when wet), which put stress on the underground pipe casing, as well as the fact that exposure of PVC casing materials to ultraviolet light before installation causes PVC to become brittle, have resulted in these systems having only a 10 to 15 year useful life at Fort Sill, instead of the 25 to 40 year life common to other piping systems of this type. In view of the failures of PVC encased piping at Fort Sill and the resulting excessive repair work, as well as the need for a longer service life, the Army eliminated PVC as an acceptable protective casing. The Army also notes that in recognition of the limitations of PVC as a piping material when exposed to higher temperatures, the Corps of Engineers construction guide specification previously had restricted the use of PVC piping to chilled water pipes and currently only permits PVC for carrier pipes up to 75 degrees Fahrenheit service.

Thermacor complains that the PVC casing failures may have resulted from poor maintenance, design and spacing, and that the Army is eliminating PVC pipe casing, without any assurances that the types of fiberglass permitted will hold up under similar conditions.

Based on our review, we conclude that the Army's unfavorable experiences with PVC in similar pipe systems at Fort Sill reasonably support the Army's decision to exclude PVC pipe casing.¹ While Thermacor asserts that PVC encased pipe is


¹Although Thermacor asserts that its PVC casing is treated with ultraviolet light inhibitors, Thermacor has not shown
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acceptable for use under applicable industry standards, the agency's actual experiences at Fort Sill reasonably support the Army's restriction. Since Thermacor has offered no evidence to counter the Army's position that fiberglass is a more durable and appropriate casing to the underground heating and chilled water lines, considering the specific needs and experiences at Fort Sill, we have no basis to conclude that the agency requirement for such casing is unreasonable.

While Thermacor argues that the specifications were written to favor a particular supplier, the Army disputes this assertion and has cited several manufacturer's products that are capable of meeting the IFB's specifications. In any case, since the record established that the agency's specification is reasonably related to its minimum needs, we find that the assertion that the specification was written to favor one supplier does not provide a valid basis for protest. See Abescon Mills, Inc., B-251685, Apr. 19, 1993, 93-1 CPD ¶ 332.

Finally, the protester complains that manufacturers which utilize the spray applied insulation method have a bidding advantage over companies like Thermacor, which utilize injected insulation because the spray applied method is a less expensive method of insulation. While Thermacor's assertion may be correct, there is no legal requirement that an agency equalize competition with respect to such advantages unless that advantage results from preferential treatment on the part of the government. Bill Strong Enters., Inc., B-245619, Dec. 16, 1991, 91-2 CPD ¶ 546. Here, both methods satisfy the agency's requirements and the fact that the spray applied method may be a less expensive approach does not result from any preferential treatment by the government.

The protest is denied.


 for James F. Hinchman
 General Counsel

¹(...continued)

that the agency's conclusion, that PVC pipe casing was ineffective under the conditions at Fort Sill, was not factually based.